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Inalienable

The preamble of the Jones Philippine government act was written in the belief that it was within the power of Congress to renounce American sovereignty over the Philippines. The Clarke resolution of withdrawal from the Islands, passed by the Senate but defeated in the House of Representatives, also accepted that theory. But it is not a theory supported by logic or precedent. It is a mere assumption based on an unwarranted interpretation of a phrase in the Constitution and on a flagrant disregard of numerous Supreme Court decisions.

In "The Virginia Law Review" Mr. Daniel R. Williams, formerly a judge in the Philippines and the author of the illuminating volume "The United States and Philippines," convincingly challenges this misconception. He denies absolutely that Congress has power to alienate the sovereignty of the United States, that power being vested in the people of the United States alone and in none of their agencies.

The right to alienate sovereignty was not among the rights granted to Congress. In the Virginia State Convention this point was raised by the submission of an amendment forbidding Congress to cede American territory except by a three-fourths vote in each house of Congress. Opposing this amendment Governor Edward Randolph, who, with John Marshall, led the ratification fight, said: "There is no power in the Constitution to cede any part of the territory of the United States. But this amendment admits, in the fullest latitude, that Congress has a right to dismember the empire."

Thomas Jefferson, as Secretary of State, reported to President Washington in March, 1792, when negotiations were under way with Spain for the opening of the Mississippi River: "As to territory

Total Trade of the Philippine Islands

Distributed According to Countries of Origin and Destination, 1924

Countries of Origin and Destination	Value of Total Trade	Per cent
United States	\$157,712,505.50	64.81
Hawaii	1,313,918.50	.54
Porto Rico	25.	
Guam	152,621.	.06
United Kingdom	15,013,041.50	6.17
Japan	14,815,797.50	6.08
China	9,974,747.50	4.10
French East Indies	9,878,294.50	4.09
Spain	5,109,449.50	2.09
Germany	4,762,088.	1.96
Dutch East Indies	3,628,241.50	1.49
France	3,507,318.	1.44
Australia	3,087,693.	1.26
Hongkong	2,685,846.	1.10
British East Indies	2,468,663.50	1.02
Netherlands	2,098,509.50	.86
Switzerland	1,662,683.50	.68
Italy	1,607,320.	.66
Belgium	1,570,083.	.64
Japanese-China	528,558.	.22
Canada	486,675.	.20
Siam	154,105.	.06
Norway	140,416.50	.06
Austria	123,949.	.05
Sweden	97,649.50	.04
Denmark	49,485.	.02
All other countries.....	725,873.	.30
Grand Totals	\$243,355,557.50	100.00

(Gold ore and bullion valued at \$1,736,932, to the United States not included)

—1925 Year Book of
The Manila Harbor Board

we have neither the right nor the disposition to alienate an inch of what belongs to any member of our Union." This view of the Constitution, Jefferson held, had been confirmed by the adoption of the Tenth Amendment, which declared that all powers not delegated to the United States are reserved to the states respectively or to the people.

No United States territory has ever been alienated and the theory of the founders that territory is inalienable by the mere action of Congress remains

uncontrovertible either by legal ruling or by practice.

The phrase in Section 3 of Article IV of the Constitution, "the Congress shall have power to dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States," refers back to the creation of new states. "Territory," in this connection, has been held by the Supreme Court to mean "lands"—the public domain in terri-

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Philippines Rich In Mineral Resources

Most people, when thinking of the Philippine Islands and their resources, have in mind simply their agricultural possibilities. The fact has been stressed that they have a monopoly of hard fiber (Manila hemp), that they now produce one-third of the world's output of copra (coconut meat), that they have millions of acres suitable for the growing of rubber and other essential tropical products, and that they are rich in forest resources. Little has been said, however, of their wonderful mineral deposits, and the part they will eventually take in the future prosperity of the archipelago.

Gold

It is not generally known, for instance, that adjacent to Baguio, the summer capital of the Islands, a gold mine is now being worked which, for proven richness, is scarcely second to any in the world. For many years, and despite high operating costs, it has paid regular annual dividends of 35 per cent and more, besides inverting large sums in development and reserve. Another gold property on the Island of Masbate is also yielding large returns, while there are quartz and placer mines in Albay and northern Mindanao in successful operation.

Iron

In Surigao (Island of Mindanao) there are iron ore deposits estimated at over 500,000,000 tons, while on the adjacent Island of Cebu are large seams of coking coal, making an ideal site for smelting operations. There are also other iron deposits in the Camarines and Bulacan (Island of Luzon), running into millions of tons. Given the scarcity of iron ore throughout the Far East, and the imperative need therefor in war and industry, it is easy to figure what control of these deposits signifies in the struggle now shaping for political and commercial supremacy in the awakened Orient.

Coal

Coal is found in quantity on the Islands of Cebu, Polillo and Batan, as also in southern Mindanao. In the latter field a semi-anthracite seam of some 10,000,000 tons has already been proven.

Large bodies of copper ore exist in the province of Le Panto (Island of Luzon), awaiting only transportation facilities to make them available.

Reports by expert geologists and surface showings indicate petroleum de-

posits in various parts of the archipelago. They occupy the same general belt as the proven oil fields of Borneo and Sumatra.

Among other minerals already utilized, and whose production can be readily expanded, are asbestos, sulphur, salt, lime, bituminous rock, building stone, and so forth.

It is to be said, however, that the development of these mineral resources—which would add so greatly to the welfare and prosperity of the Filipino people—has lagged for the same reasons which have deterred any worthwhile development of the agricultural possibilities of the Islands.

No Native Initiative

Aside from their lack of large capital, Filipinos do not risk their money in speculative ventures—among which mining is classed. Their investment in this industry is less than one per cent of the total—such development as now exists having been accomplished by outside capital. In an effort to overcome this situation, the Philippine Legislature undertook—during the Harrison administration—to promote such development through "National Companies" financed from Insular funds. Provision was made for a National Coal Company, a National Cement Company, a National Petroleum Company and a National Iron Company. The first two were launched, but soon became a clearing house for political favorites, and efforts are now being made to sell them to private interests.

Foreign Capital Blocked

Despite the obvious fact that every encouragement possible should be afforded capital to realize this latent wealth of the Islands, existing legislation places innumerable obstacles in the way of such development. Among various other restrictions may be mentioned the following: only one claim can be located or held on any vein or lode by an individual or corporation; stockholders in one mining company cannot hold stock in any other company engaged in mining; an export or wharfage tax of \$1.00 per ton on shipments of iron ore; a tax of 1½ per cent on mineral production; the levy of a tax on non-producing mineral lands, and so forth.

The removal of these restrictions—which now effectually block development—would not only furnish an incentive to capital to enter this industry, but would supply employment to thousands of Filipinos, would increase the taxable wealth and revenues of the Islands, and this without detriment to any one.

Inalienable

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territories, organized or unorganized. The language does not imply any right to alienate sovereignty.

The Philippines were conveyed to the United States in full and absolute title. The vast public domain in the Islands, which belonged to Spain, now belongs to the American people and is of enormous potential value. Nothing in the Treaty of Paris conferred, or could confer, on Congress the right to give this property or any other part of the Philippines to any other power, or to the natives of the Philippines, recognized as constituting an independent state.

Chief Justice White referred in one of his opinions to the false assumption that Congress may relinquish American sovereignty, saying:

"In view of the relation of the territories to the government of the United States at the time of the adoption of the Constitution, and the solemn pledge then existing that they should forever remain a part of the Confederacy of the United States of America, I cannot resist the belief that the theory that the disposing clause relates as well to a relinquishment or cession of sovereignty as to a mere transfer of property, is altogether erroneous."

Congress may govern territories, using that term in either the narrower or the broader sense but it has no right to give them away without consulting their owners, the people of the United States. In order to be able to turn the Philippines over to the Filipinos, Congress would first have to obtain authority from the people of the United States by submitting a constitutional amendment for approval or by calling a constitutional convention to add an alienation clause to the Constitution. That is the conclusion which Judge Williams reaches. It is a conclusion based on history and on the whole trend of our judicial decisions. Congress has carelessly ignored it. But it might as well be faced now by the politicians who want to dispose offhand of our immensely valuable domain in the Philippines and who labor under the illusion that the futile verbiage of the Jones law preamble justifies them in doing so.

The Jones preamble is unconstitutional and void. It ought to be repealed forthwith by Congress in the interest of historical consistency and political honesty.

—Editorial, *New York Herald Tribune*, November 11, 1925.

